**SCHLACTER & ASSOCIATES Attorneys for Plaintiff** 450 Seventh Avenue New York, New York 10123 (212) 695-2000 By: JED R. SCHLACTER (JRS-4874)



7 CIV	713
07 Civ.	
COMPLAINT	
	07 Civ.

#### **JURISDICTION**

This action, as more fully stated below, is for, inter alia, copyright infringement, 1. unfair trade practices and unfair competition; arises under Title 17 of the United States Code;

defendant, alleges:

jurisdiction is vested in this Court under 28 U.S.C. Sections 1338(a) and 1338(b); and proper venue exists under 28 U.S.C. Sections 1400(a) and 1391.

#### **THE PARTIES**

- 2. Plaintiff, CAMERON INDUSTRIES, INC. (hereinafter referred to as "Cameron") is a domestic corporation duly organized and existing under the laws of the State of New York, with an office located at 1375 Broadway, New York, NY 10018. Plaintiff is a textile converter, selling finished textile piece goods to, among others, garment manufacturers.
- 3. Upon information and belief, defendant, LARRY HANSEL CLOTHING, LLC (hereinafter referred to as "Hansel") is a foreign corporation, with a place of business at 2300 S. Eastern Avenue, Commerce, California 90040 and 530 Seventh Avenue, New York, NY 10018, which purportedly manufactures, distributes and sells, among other items, ladies' wearing apparel to retail stores. Upon information and belief, defendant RAMPAGE CLOTHING COMPANY (hereinafter collectively referred to as "Rampage" or as "defendants"), is a foreign corporation, with a place of business at 2300 S. Eastern Avenue, Commerce, California 90040 and 530 Seventh Avenue, New York, NY 10018, and is a licensor of defendant Hansel.

### **FIRST CAUSE OF ACTION**

#### PLAINTIFF'S COPYRIGHTED WORK

- In 2006 an original work of art was created by the plaintiff, and identified as "Pattern 4. No. 1074".
- 5. Since on or about August 4, 2006, plaintiff's original work of art was produced on fabrics, which fabrics are also identified as Pattern No. 1074.
- The design of Pattern No. 1074 is wholly original and is copyrightable subject matter 6. under the laws of the United States.
- In or about August 4, 2006, plaintiff began selling fabrics bearing the design known 7. as Pattern No. 1074.
- 8. All of the provisions of Title 17 of the United States Code, and all of the laws governing Copyright, have been duly complied with; and a Certificate of Registration has been duly received from the Register of Copyrights, covering the design known as Pattern No. 1074, identified as follows: Registration No. VA 1-409-067.

3

- 9. Plaintiff is the sole proprietor of all rights, title and interest in and to the Copyright of said design.
- 10. A photocopy of plaintiff's Certificate of Registration for said copyrighted design is annexed hereto as Exhibit "A".
- 11. Subsequent to the publication by plaintiff of its Pattern No. 1074 involved herein, defendants, with full knowledge of the rights of plaintiff therein, infringed plaintiff's Copyright on such design by reproducing, displaying, manufacturing, printing, reprinting, yarn-dyeing, publishing, vending, distributing, selling, promoting and/or advertising garments bearing a design thereon which contained substantial material copied from said copyrighted fabric design or by causing and/or participating in such reproduction by reproducing, displaying, manufacturing, printing, reprinting, yarn-dyeing, publishing, vending, distributing, selling, promoting and/or advertising, all in violation of the rights of plaintiff under Section 106 of the Copyright Law, Title 17 U.S.C.
- 12. A photocopy of plaintiff's copyrighted design known as Pattern No.1074 is annexed hereto as Exhibit "B". A photocopy of defendants' said infringement is annexed hereto as Exhibit "C".

- All of defendants' acts, as set forth herein, were performed without the permission, 13. license or consent of plaintiff.
- 14. Plaintiff has gone to great expense in producing and promoting the sale of fabrics bearing its copyrighted design Pattern No. 1074.
- Plaintiff's copyrighted design incorporated carefully prepared and fashionable color 15. combinations, which color combinations aided greatly in the sale of garments bearing the copyrighted design.
- As a result of plaintiff's expenditure of money and skill in the promotion for sale of 16. fabrics bearing plaintiff's copyrighted design, the fabric design and garments have acquired a substantial market value in the trade.
- Defendants have a design obviously copied from plaintiff's copyrighted design, which 17. copy defendants have been offering and continue to offer for sale. The design printed on defendants' garments is substantially similar to plaintiff's copyrighted design.

- Defendants' infringing design (Exhibits "C") is unmistakably copied from plaintiff's 18. design (Exhibit "B").
- 19. Defendants' garments, when viewed by a consumer, would appear to be substantially similar to a garment of like style bearing plaintiff's copyrighted design.
- Upon information and belief, defendants have produced their garments incorporating 20. the copied design in a color combination virtually identical to a color combination of plaintiff's design.
- 21. Defendants, by their acts as aforesaid, have taken advantage of the knowledge and skill of plaintiff and of the good will developed by plaintiff and have capitalized upon the market created for plaintiff's design.
- 22. By defendants' use of a design and color combination virtually identical with plaintiff's design and color combination, defendants have been and will continue to be able to pass off and sell their garments as a substitute for the garments sold by customers of plaintiff.

23. The aforesaid acts of defendants in copying plaintiff's design and color combination and selling copies of same constitutes inequitable conduct, unfair trade practices and unfair competition in that defendants have thereby misappropriated plaintiff's good will and the benefits of plaintiff's knowledge, skill and expenditures in the promotion of the distinctive design and color combination, and by reason of the sale of defendants' garments in competition with the plaintiff's sales of fabrics incorporating the copyrighted design have caused irreparable injury to plaintiff in that plaintiff's market has been greatly reduced thereby, which injury will continue so long as defendants continue to market the copied design.

Plaintiff has been damaged by the acts of defendants alleged herein in an amount not 24. as yet known, but believed to be in excess of One Million (\$1,000,000.00) Dollars. The infringing activities of defendants are further and continuously damaging plaintiff in a manner for which plaintiff has no adequate remedy at law.

#### **SECOND CAUSE OF ACTION**

25. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 3 above as if fully repeated herein.

7

#### PLAINTIFF'S COPYRIGHTED WORK

- 26. In 2006 an original work of art was created by plaintiff, and identified as "Pattern No. 1117".
- 27. Since on or about August 10, 2006, plaintiff's Pattern No. 1117 was produced on fabrics, which fabrics are also identified as Pattern No. 1117.
- 28. The design of Pattern No. 1117 is wholly original and is copyrightable subject matter under the laws of the United States.
- 29. In or about August 10, 2006, plaintiff began selling fabrics bearing the design known as Pattern No. 1117.
- 30. All of the provisions of Title 17 of the United States Code, and all of the laws governing Copyright, have been duly complied with; and a Certificate of Registration has been duly received from the Register of Copyrights, covering the design known as Pattern No. 1117, identified as follows: Registration No. VA 1-409-070.

- 31. Plaintiff is the sole proprietor of all rights, title and interest in and to the Copyright of said design.
- 32. A photocopy of plaintiff's Certificate of Registration for said copyrighted design is annexed hereto as Exhibit "D".
- 33. Subsequent to the publication by plaintiff of its Pattern No. 1117 involved herein, defendants, with full knowledge of the rights of plaintiff therein, infringed plaintiff's Copyright on such design by reproducing, displaying, manufacturing, printing, reprinting, yarn-dyeing, publishing, vending, distributing, selling, promoting and/or advertising garments bearing a design thereon which contained substantial material copied from said copyrighted fabric design or by causing and/or participating in such reproduction by reproducing, displaying, manufacturing, printing, reprinting, yarn-dyeing, publishing, vending, distributing, selling, promoting and/or advertising, all in violation of the rights of plaintiff under Section 106 of the Copyright Law, Title 17 U.S.C.
- 34. A photocopy of plaintiff's copyrighted design known as Pattern No. 1117 is annexed hereto as Exhibit "E". A photocopy of defendants' said infringement is annexed hereto as Exhibit "F".

- All of defendants' acts, as set forth herein, were performed without the permission, 35. license or consent of plaintiff.
- 36. Plaintiff has gone to great expense in producing and promoting the sale of fabrics bearing its copyrighted design Pattern No. 1117.
- 37. Plaintiff's copyrighted design incorporated carefully prepared and fashionable color combinations, which color combinations aided greatly in the sale of garments bearing the copyrighted design.
- 38. As a result of plaintiff's expenditure of money and skill in the promotion for sale of fabrics bearing plaintiff's copyrighted design, the fabric design and garments have acquired a substantial market value in the trade.
- Defendants have a design obviously copied from plaintiff's copyrighted design, which 39. copy defendants have been offering and continue to offer for sale. The design printed on defendants' garments is substantially similar to plaintiff's copyrighted design.

- Defendants' infringing design (Exhibits "F") is unmistakably copied from plaintiff's 40. design (Exhibit "E").
- 41. Defendants' garments, when viewed by a consumer, would appear to be substantially similar to a garment of like style bearing plaintiff's copyrighted design.
- 42. Upon information and belief, defendants have produced their garments incorporating the copied design in a color combination virtually identical to a color combination of plaintiff's design.
- Defendants, by their acts as aforesaid, have taken advantage of the knowledge and 43. skill of plaintiff and of the good will developed by plaintiff and have capitalized upon the market created for plaintiff's design.
- By defendants' use of a design and color combination virtually identical with 44. plaintiff's design and color combination, defendants have been and will continue to be able to pass off and sell its garments as a substitute for the garments sold by customers of plaintiff.

- 45. The aforesaid acts of defendants in copying plaintiff's design and color combination and selling copies of same constitutes inequitable conduct, unfair trade practices and unfair competition in that defendants have thereby misappropriated plaintiff's good will and the benefits of plaintiff's knowledge, skill and expenditures in the promotion of the distinctive design and color combination, and by reason of the sale of defendants' garments in competition with the plaintiff's sales of fabrics incorporating the copyrighted design have caused irreparable injury to plaintiff in that plaintiff's market has been greatly reduced thereby, which injury will continue so long as defendants continue to market the copied design.
- 46. Plaintiff has been damaged by the acts of defendants alleged herein in an amount not as yet known, but believed to be in excess of One Million (\$1,000,000.00) Dollars. The infringing activities of defendants are further and continuously damaging plaintiff in a manner for which plaintiff has no adequate remedy at law.

#### WHEREFORE, plaintiff demands:

(1) That defendants, their agents, employees and servants be enjoined pendente lite and permanently from infringing the said Copyright Nos. VA 1-409-067 and VA 1-409-070 of plaintiff covering its Pattern Nos.1074 and 1117, in any manner and from publishing, selling, marketing or

otherwise disposing of any textiles and garments imprinted with designs copied from plaintiff's said copyrighted designs.

- That defendants be required to pay to plaintiff damages in the amount of Two Million **(2)** (\$2,000,000.00) Dollars, plus interest, which plaintiff has sustained in consequence of defendants' infringements of said Copyrights and said unfair trade practices and unfair competition and to account for:
  - all gains, profits and advantages derived by defendants in their (a) infringements of plaintiff's Copyrights or such damages as to the Court shall appear proper within the provisions of the copyright statutes, and
  - (b) all gains, profits and advantages derived by defendants by said unfair practices and unfair competition.
- That defendants be required to deliver up to be impounded during the pendency of (3) this action, all copies of said reproduction of said works of art in their possession or under their control, and to deliver up for destruction all infringing copies and rollers, screens, plates, molds, and other matter for making such infringing copies.

- (4) That defendants pay to plaintiff the costs of this action and reasonable attorneys' fees to be allowed to the plaintiff by the Court.
  - (5) That plaintiff have such other and further relief as is just.

Dated: New York, New York August 9, 2007

SCHLACTER & ASSOCIATES

Attorneys for Plaintiff

JED R. SCHLACTER (JRS-4874)

450 Seventh Avenue New York, NY 10123

(212) 695-2000

### **EXHIBIT A**

### Certificate of Registration PKC

This Certificate issued under the seal of the Copyright

Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Document 1 Filed 08/10 0 7 7 7 4 6 of 28

For a Work of the Viewal Arts UNITED STATES COPYRIGHT OFFICE

VA 1-409-067

EFFECTIVE DATE OF REGISTRATION

JUL 0 3 2007

**FUNDS RECEIVED** 

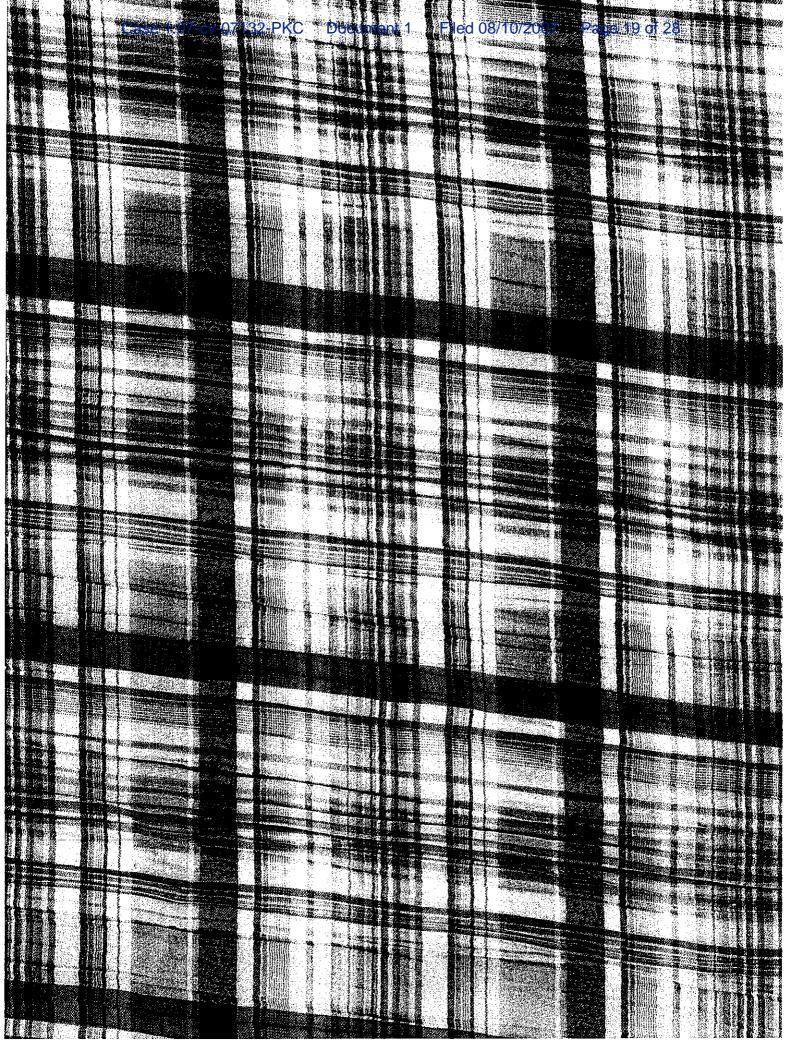
Narybeth Peters

TRANSFER If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brasi statement of how the claimant(s) obtained ownership of the copyright ▼

	Register of Copyrights, United States of America	하는 사람이 하는			
1911	DO NOT WRITE ABOVE THIS LINE IF YOU NEED MORE SPACE, USE A	SEPARATE CONTINUATION SMEET			
	PATTEAN NO. 1074	DESIGN FOR FABRIC			
	PREVIOUS OR ALTERNATIVE TITLES V				
	PUBLICATION AS A CONTRIBUTION. If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared.  Title of Collective Work				
	If published in a periodical or seriel give: Values ♥ Number ♥	hine Dae ▼ Or Page ▼			
<b>9</b> a	NAME OF AUTHORY  CAMERON INDUSTRIES, INC	DATES OF BIRTH AND DEATH Year Born V Year Daid V			
	Was this contribution to the work a AUTSION'S NATIONALITY OR DOMO have of Country  Agree OR Citizen of USA  Densiciled in the	THE WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK If the argumen to offer Anonyzous?  Yes Anonyzous? Pseudonymous?  Yes Anonyzous instructions.			
NOTE Index the lew he author of work made in hire is more made in hire is more and in hire in manager and	NATURE OF AUTHORSHIP Check appropriate box(es). See Instructions  3-Dumensional aculpture				
ne simpleyes see instruc one) For any art of this ork that was	NAME OF AUTHOR Y	DATES OF BIRTH AND DEATH Year Born ▼ Year Died ▼			
nade for hire- fical "Yes in 10 apade rovided give to employer w other	Was this contribution to the work: a AUTHOR'S NATIONALITY OR DOMIC! "work made for here"? Home of Cauchy  OR Citizen of Domiciled in the	LE WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK of the second to define a control of these questions in Yes One of these questions in Yes one detailed productions.			
eroon for hom:the work as prepared) I Author! of ial part and ave the lace for dates birth and eath blank	☐ 2-Dimensional artwork ☐ Photograph ☐ Text	frucal drawing			
3) a		IRST PUBLICATION OF THIS PARTICULAR WORK			
4	COPYRIGHT CLAIMANTIS) Name and address must be given even if the claumant is the author given in space 2.   CAMERON INDUSTRIES, INC.	the same as APPICO 18-2087 ENCEIVED			

	Case 1:07-cv-07132-PKC	Document 1	Filed 08/10/2007	Page 17 of 28
		1	EXAMINED BY	FORM VA
			CHECKED BY	
		i	CORRESPONDENCE	FOR COPYRIGHT
		<u> </u>	Yes	OFFICE USE
				ONLY
DO	NOT WRITE ABOVE THIS LINE IF YOU NEED	MORE SPACE, USE A	SEPARATE CONTINUATION	SHEET
	ISTRATION this registration for this work, or for an earl	and the second of the second o	y bosse made in the Copyright Office?	
	our answer is "Yes," why is another registration being sough published adiaon of a week previously registered to expublic			
. [] This is the first	application admitted by this author as copyright chilment.			
	ed version of the words, as shown by space 6 on this applicate t, "give. Previous Registration Number V	on. Year of Registration ♥		
DERIVATIVE W. Prescieting Materi	ORE OR COMPILATION Complete both space for a fall identify any presciency work or works that this work is	nd 65 for a derivative work, co based on or incurporates. $ abla$	captore only 6b for a compilence.	
logo yeti e de Magazia				aU
				See instructions before completing
Material Added to	This Work Give a brief general statement of the material	that has been added to this wor	k and in which copyright is claimed. Y	
				b
EPOSIT ACCOU	UNT If the regestration fire as to be charged to a Disposit Ac	count established to the Copyri Account Number V	ght Office, give some and number of /	covert. 7
				_ 1
				a -
	NCE Give seame and address to which correspondence about	s this application abould be our S Q	L Name/Address/Apt/City/State/ZII	b
	ED R. SCHLACIER, E SCHUACTER I ASSOCIA			U
	YSO SEVENTH AVE	1417 2		
Area code and days	INGIN YORK NY	10123	Fourier > 2/2 62	19-5825
ERTIFICATION	I the undersigned, hereby certify that I am the			
	and the second of the second o	O suther copyrig		
	check only one	Owner of each	unive right(s) An ASSO ELA	WOUSTRIES, INC.
		authorized ag	Thing of makes or other empiries the	mart, or parter of excitative to (10) à
the work identified me in this applica	in this application and that the statements made tion are correct to the best of my knowledge.			
	me and date V If this application gives a date of public	ation in space 3 do not such	and submit at before that date	
Abra or Atmintain	\ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \			
	SOHETA KHAY	<i>דיוו</i> ץ	Date Jul	VE 29, 2007
Handwritt	ten signature (X) V			
<u> </u>	J. Worth		ar a sa karangan na pinangan sa karangan na karangan na karangan na karangan na karangan na karangan na karang Karangan na karangan na ka	
				I DOSENIA SOSONI
ertificate	CONTACTER V	ASSOCIAT	7ES Agriyour	application in space B
	450 SEVENTH	A.15	700	n form Inhip \$20 filing toe
ertificate ill be	450 SEVENTH	JUB , SUITE	in check payable to a December of	r stoney order Auguster of Copyrights storial
Indow	DESMOZIP V NEW YOLK,	NY 1012		copyrights, Library of Congress demos Ave SE D.C. 200509-0000
rvelope		· · · · · · · · · · · · · · · · · · ·	10f årdeper	dence Ave. 3 E D.C. 20669-8000

# **EXHIBIT B**



### **EXHIBIT C**



# **EXHIBIT D**

Case 1:07-cv-07132-PKC Document 1 Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Narybeth Peters Register of Copyrights, United States of America Filed 08/10/2007 Peop 23 of 28

MITED STATES COPYRIGHT OFFICE

VA 1-409-070

EFFECTIVE DATE OF REGISTRATION

WI 03 2007

DO NOT WRITE ABOVE THIS LINE IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET NATURE OF THIS WORK Y See February TITLE OF THIS WORK Y

PATTERN NO. 1117

DESIGN FOR FABRIC

PREVIOUS OR ALTERNATIVE TITLES

PUBLICATION AS A CONTRIBUTION If this work was published as a contribution to a periodical serial, or collection, give information about the Title of Collective Work Y Bective work in which the contribution appeared.

If published in a periodical or serial give: Volume V

NAME OF AUTHOR Y Was this contribution to the work

CAMERON INDUSTRIES,

**AUTHOR'S NATIONALITY OR DOMICILE** 

"work made for hire"?

Citizen of

DATES OF BIRTH AND DEATH Year Died 🔻 Year Born V

WAS THIS AUTHOR'S CONTRIBUTION TO

THE WORK

ployer not employee i space ovided give

raon for hom the wor al part and ave the lace for dates eth blank

NATURE OF AUTHORSHIP Check appropriate bor(es). See instructions

☐ Map 3-Dimensional sculpture

Photograph D lewelry design ☐ Test

☐ Architectural work

☐ Technical drawing

NAME OF AUTHOR V

A Yes E No

AUTHOR'S NATIONALITY OR DOMICILE

Citizen of

DATES OF BIRTH AND DEATH Year Born V

Was this contribution to the work a work made for him?

O Yes □ No

THE WORK Anonymous?

Pseudonymous?

☐ Yes ☐ No

☐ Yes ☐ No

WAS THIS AUTHOR'S CONTRIBUTION TO

NATURE OF AUTHORSHIP Check appropriate box(es). See instructions

3-Dimensional sculpture

2 Dumenmonal artwork

Reproduction of work of art

Design on sheetlike material

☐ Map ☐ Photograph ☐ Technical drawing

☐ 2-Dimensional artwork □ Reproduction of work of art

☐ Jewelry design

□ Text ☐ Architectural work

R Design on sheetlike material

WORK WAS COMPLETED 2006

DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK

YEAR IN WHICH CREATION OF THIS

COPYRIGHT CLAIMANT(S) Name and address must be given even if the distinct is the same a

CAMERON INDUSTRIES, INC BITS BROADWAY NEW YORK, NY 10018

TRANSFER If the claimantie) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright.

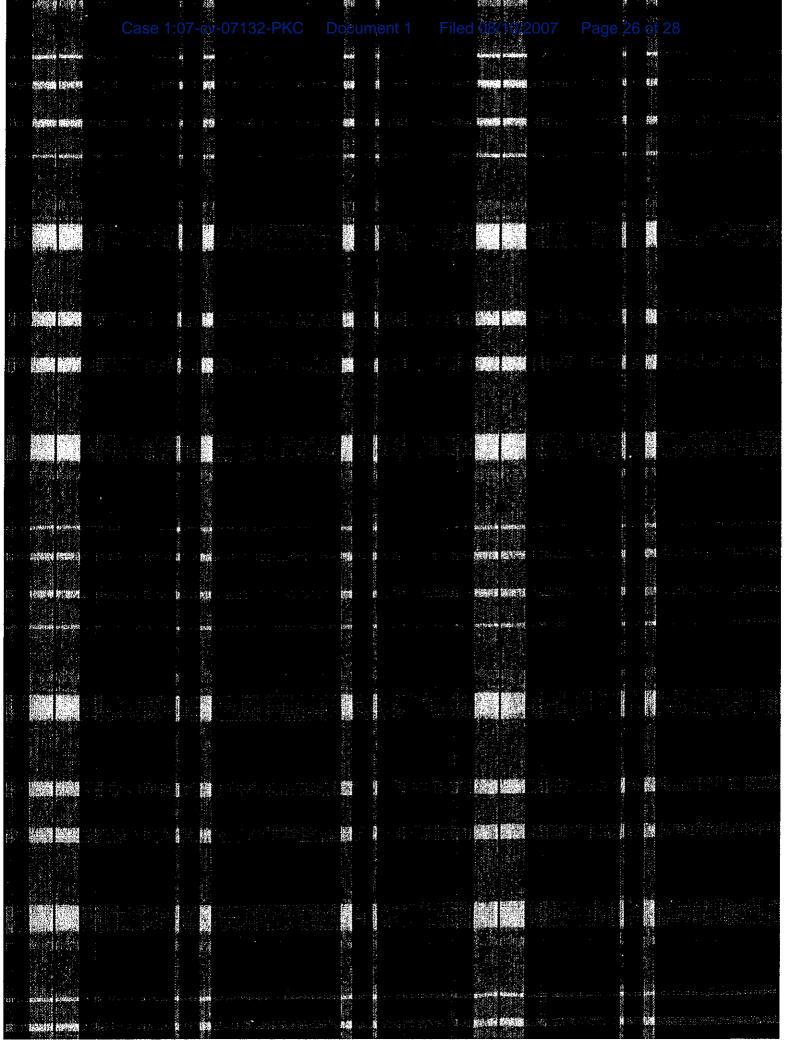
ONE DEPOSIT RECEIVED tnii 0 3-2007 ·

TWO DEPOSITS RECEIVED

**FUNDS RECEIVED** 

	Case 1:07-cv-07132-PKC	Document 1	Filed 08/10	)/2007 Page 24	of 28
			EXAMINED BY		FORM VA
		•	CHECKED BY		
			CORRESPONDE	NCE	FOR COPYRIGHT
		•	— Yes		OFFICE USE
					ONTA
	NOT WRITE ABOVE THIS LINE. IF YOU NEED				
	SISTRATION Has registration for this work, or for an early your asswer is "Yes," why is another registration being sought"		y been made in the Copyrig	M Office?	K
. 🗆 Thu si the fire	s published adhear of a week previously registered as asymbles				J
	t application submitted by this author as copyright claiment. and version of the work, as shown by space 6 on this applicatio				
f your answer is "Yo	s." grv. Previous Registration Number V	Year of Registration ♥	· ·		
ERIVATIVE V	YORK OF COMPILATION Complete beth spece (e a	d & fee a descriptive work, as	relate only (b for a compl	late.	
L Presiding Mate	rial identify any premistrag work or works that this work is b	Med co c. Secorpornes. ▼			
					See Instructions before completing
Mariel Added	in This Work Give a brief general statement of the material of	her have have added to they were	k and in which committees	claimed V	This space.
					_b
EPOSIT ACCO	NUNT If the registration for is to be charged to a Daponk Acc	cust established in the Copyri Assessat Number V	gla Office, give some and s	number of Account	7
					a /
					<b></b> 
	NCE Give name and address to which correspondence about ED R. SCHLACTER, ES	stim application should be see 5 Q	ii. Name/Address/Apt/Ci	y/State/ZIP ▼	b
	SCHLACTER & ASSOCIA	<del>E</del> 5			<del></del>
		11123			<del>-</del>
	tion belighers number   > 2/2 695 - 2	100	Fexaulter > 2/2	629 - 5825	
ERTIFICATIO	No 1, the undersegned, hereby certify that I am the	<b>■</b> □ suthor	· .		0
	chad: only cas	Other copyrig	ht claimant		8
		Sauthorized as	cot CAMER	ON MOUSTRIE	TWC.
	ed in this application and that the statements made abon are correct to the best of my knowledge.				
	ame and date V If this application gives a date of public	than in more 3, do not seen	and submit at before that	date	· 
There is himmer if					
	SOHETL KHAY	<i>י</i> ריק <i>ו</i>	Date D	JENE 29, 200	7
Handwrl	iten signature (X) V				
	6 June 1				
Vieil No.	mo V	100 00 107		Complete all secureary species Sign your application in space B	. <b>Q</b>
xertificate C	SCHLACIER V	1550CIT	/ <del>E</del> S		
Certificate will be	SCHLACTER V  TROUTTH VISION YOLK, /	ANG, SUITE	1308	Application form  Normalundable \$20 librar fee in check or money order psychia to Register of Copyrights	
	PRIMAZER Y	11 /012	3 6	L Copper Interes	
mvelope	NEW JUNK, 1	V 1 10/2		legester of Copyrights: Library of Col Of Independence Ave. S.E. Nachington, D.C. 20556-8000	

### **EXHIBIT E**



# **EXHIBIT F**

